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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,885	08/25/2003	Shinya Asano	03560.003066.1	1251
5514	7590	10/21/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			VO, ANH T N	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2861	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,885

Applicant(s)

ASANO ET AL.

Examiner

Anh t.n Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Preliminary amendment filed on 8/25/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/190,684.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/25/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledgement is made of the receipt of Preliminary Amendment filed 25 August 2003.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The references cited on PTO 1449 have been considered.

Specification

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Double patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-7 and 13-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of Patent number 6,722,761. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim an inkjet recording device comprising:

- a tank;
- plural chambers comprising a main chamber and a needle-receiving chamber;
- a needle for supplying ink or discharged air;
- a connecting hole;
- a resilient joint;
- a opening;
- the connecting hole is situated above the opening; and
- a meniscus of ink.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

CLAIM REJECTIONS

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior arts are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 13-19 are rejected under 35 USC 103 (a) as being unpatentable over Ikkatai et al. et al. (US Pat. 6,022,102) in view of Takagi et al. (US Pat. 5,984,460).

Ikkatai et al. disclose in Figures 1-2B a head cartridge of an ink jet recording apparatus comprising:

- a tank (1) for containing ink, the tank (1) being divided into plural chambers (3, 14) including at least one needle-receiving chamber (14) and at least one main chamber (3) whose capacity is larger than said needle-receiving chamber (14), said main chamber (3) and said needle-receiving chamber (14) being connected through a connecting hole (12) therebetween, wherein said needle-receiving chamber (14) includes an opening (an opening which is sealed by element 17b) for insertably receiving a needle (18b) for supplying ink or discharging air from said needle-receiving chamber (14);
- wherein the opening is closed by a resilient joint (17a) through which the needle (18b) can pass;
- wherein the needle (18b) is not insertable into said main chamber (3);
- wherein, when a large amount of ink is supplied to said needle-receiving chamber (14) the ink flows from said needle receiving chamber (14) to said main chamber through (3) the connecting hole (12);
- wherein, when the amount of ink inside said main chamber (3) decreases, the ink flows from said needle-receiving chamber (14) to said main chamber (3) through the connecting hole (12) in order to replenish the main chamber (3) with ink; and

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- supply means (5, 18b) for supplying ink to said tank (3, 14) of said inkjet recording head (1), said supply means including a needle (18b) which is inserted into said needle-receiving chamber (14).

Takagi et al. disclose in Figures 1-2 an ink tank (1) for use in an ink jet printer comprising said connecting hole (9) is sized small so as to allow formation of a meniscus of ink (column 6, lines 34-35).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teaching of Takagi et al. into the Ikkatai et al. head cartridge for the purpose of avoiding entering of the air bubbles into the print head cartridge (see column 6, lines 41-44).

Ikkatai et al. in view of Takagi et al. disclose the claimed invention except "in the upright position, the connecting hole is situated above the opening". It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the connecting hole which is situated above the opening for the purpose of providing a liquid communication between two chambers, since it has been held that rearrange parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art reference (US Pat. 5,485,187) cited in the PTO 892 form show an ink jet recording apparatus which is deemed to be relevant to the present invention. This reference should be reviewed.

CONCLUSION

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo, whose telephone number is (571) 272-2262.

The fax number of this Group 2800 is (703) 872-9306.

A handwritten signature in black ink, appearing to read 'Anh T.N. Vo', with a long horizontal flourish extending to the right.

ANH T.N. VO
PRIMARY EXAMINER

October 20, 2004